

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al*
Debtors¹

PROMESA Title III

Case No. 17-BK-03283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of,

THE PUERTO RICO SALES TAX FINANCING
CORPORATION,

Debtor.

PROMESA Title III

No. 17 BK 3284-LTS

**MOTION TO INFORM CROSS-EXAMINATION AND PRESENTATION OF EXPERT
TESTIMONY IN HEARING OF JANUARY 16, 2019**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE LAURA TAYLOR SWAIN:

COMES NOW PROSOL-UTIER, through its undersigned counsels, and before this

Honorable Court, very respectfully, states and prays as follows.

¹ The Debtors in these Title III cases, along with each Debtor's respective title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("**ERS**") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority ("**HTA**") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation ("**COFINA**") (Bankruptcy Case No. 17 BK 3284) (Last Four Digits of Federal Tax ID: 8474), and (v) Puerto Rico Electric Power Authority ("**PREPA**") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747).

1. The undersigned, appearing in this proceeding on behalf of PROSOL-UTIER, hereby respectfully submit this Informative Motion in response to the Court's Order entered on January 9, 2019 (Docket Entry No. 4647 in Case No. 17-03283).
2. PROSOL-UTIER contends there are disputed material factual issues and wishes to cross-examine any declarant proposed by the other parties in these proceedings.
3. PROSOL-UTIER submitted an expert report and a declaration under oath of José I. Alameda-Lozada, Ph.D. ("Dr. Alameda") as exhibits of the *Objection of PROSOL-UTIER to Confirmation of the Second Amended Title III Plan of Adjustment of the Debts of Puerto Rico Sales Tax Financing Corporation ("COFINA")* [Case No. 17-3284, Docket Entry No. 380]. Such report and declaration are deemed as submitted as direct testimony according to the *Order* entered by this Court on January 9, 2019 (Docket Entry No. 4647 in Case No. 17-03283).
4. Therefore, PROSOL-UTIER also intends to present the expert testimony of Dr. Alameda at the Hearing, if it deems it necessary, as rebuttal testimony.
5. Counsel Rolando Emmanuelli-Jiménez of Bufete Emmanuelli, C.S.P., will appear in person and speak in the San Juan Courtroom at the Hearing on behalf of PROSOL-UTIER.
6. The relevant Hearing Matters in connection with which PROSOL-UTIER intends to cross-examine and/or present expert testimony are (1) the *Commonwealth of Puerto Rico's Motion Pursuant to Bankruptcy Rule 9019 for Order Approving Settlement Between Commonwealth of Puerto Rico and Puerto Rico Sales Tax Financing Corporation* (Docket Entry No. 4067 in Case No. 17-3283); and (2) the *Second Amended Title III Plan of Adjustment of Puerto Rico Sales Tax Financing*

Corporation (Docket Entry No. 380 in Case No. 17-03284), filed in Docket Entry No. 404 in Case No. 17-03284 and in Docket Entry No. 4592 in Case No. 17-03283.

7. The factual issues to which the proposed cross-examination refers to are the reliability of the economic projections, the feasibility of the Plan, the protection of the essential services and the adequate funding for public pension systems as required by Section 201 of PROMESA. Also, if it is in the best interests of the creditors and if it complies with all the requirements set forth in Section 314 of PROMESA for confirmation of the Plan. PROSOL-UTIER reserves the right to cross-examine witnesses on other factual issues as it deems necessary.
8. The factual issues to which the proposed expert testimony of Dr. Alameda refers to are based on his conclusions from the expert report submitted, which can be summarized as follows: (1) the COFINA Plan is uncertain and totally unreliable; (2) the COFINA Plan cannot be consistent with the Fiscal Plans because they are uncertain and totally unreliable; (3) the Fiscal Plans and the COFINA Plan are not feasible; (4) the Fiscal Plans and the COFINA Plan do not ensure the funding of essential public services; (5) the Fiscal Plans and the COFINA Plan do not provide adequate funding for public pension systems; (6) the Fiscal Plans and the COFINA Plan do not provide for the elimination of structural deficits; and, (7) before or after 2034, the Fiscal Plans and the COFINA Plan will lead Puerto Rico to another default of payment in the bondholders obligations. In sum, the Fiscal Plans are not economically feasible and lack scientific reliability to develop dependable revenue and expenditures projections, which are indispensable to address the confirmation of the COFINA Plan. PROSOL-UTIER reserves the right to extend the expert testimony to other factual issues as it deems necessary.

9. The subject matter of the expert testimony is the objection from PROSOL-UTIER to the confirmation of the Plan of Adjustment of Debts of COFINA which included as exhibits an expert report and a declaration under oath of Dr. Alameda. The expert testimony is relevant to the factual issues already mentioned because it sustains PROSOL-UTIER's objection based on the argument that the proposed Plan is not compliant with the requirements of Sections 201 and 314 of PROMESA for the confirmation of the Plan.

10. The time requested for the examination of witnesses is 15 minutes per witness.

11. The time requested for the expert testimony of Dr. Alameda is at least one (1) hour.

WHEREFORE, the undersigned very respectfully pray for this Court to take notice of the above stated.

RESPECTFULLY SUBMITTED.

In Ponce, Puerto Rico, this 10th day of January, 2019.

WE HEREBY CERTIFY that on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all participants and Standard Parties. Paper copies have been mailed pursuant to Section II of the *Seventh Amended Notice, Case Management and Administrative Procedures*:

- (i) Chambers of the Honorable Laura Taylor Swain (two copies shall be delivered to the chambers):
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Suite No. 3212
New York, New York 10007-1312;
- (ii) Office of the United States Trustee for Region 21
Edificio Ochoa, 500 Tanca Street, Suite 301
San Juan, PR 00901-1922

Bufete
Emmanueli C.S.P.

472 Ave. Tito Castro
Marvesa Building, Suite 106
Ponce, Puerto Rico 00716
Tel: (787) 848-0666
Fax: (787) 841-1435

/s/Rolando Emmanuelli Jiménez
Rolando Emmanuelli Jiménez
USDC: 214105

/s/Jessica Méndez Colberg
Jessica Méndez-Colberg
USDC: 302108

Emails:
rolando@bufete-emmanuelli.com
jessica@bufete-emmanuelli.com
notificaciones@bufete-emmanuelli.com